

The Chairman, Mark Maxwell, called the meeting of the Board of Zoning Appeals to order in Council Chambers, at 7:30 P.M., on Tuesday, May 18, 2004.

PRESENT: Kenneth Courtney
 Christopher Fejes
 Michael Hutson
 Matthew Kovacs
 Mark Maxwell
 Thomas Strat

ABSENT: Marcia Gies

ALSO PRESENT: Mark Stimac, Director of Building & Zoning
 Allan Motzny, Assistant City Attorney
 Pamela Pasternak, Recording Secretary

Motion by Kovacs
Supported by Courtney

MOVED, to excuse Ms. Gies from this meeting as she is out of town.

Yeas: 6 – Fejes, Hutson, Kovacs, Maxwell, Strat, Courtney

MOTION TO EXCUSE MS. GIES CARRIED

ITEM #1 – APPROVAL OF MINUTES – MEETING OF APRIL 20, 2004

Motion by Courtney
Supported by Kovacs

Mr. Kovacs said that the vote in the draft in the minutes indicated that the vote on Item #2 states Yeas – 6, but only had three (3) names listed. Vote in the draft of the minutes was changed to indicate approval by 6 votes.

MOVED, to approve the minutes of the meeting of April 20, 2004 with correction of the vote on Item #2.

Yeas: 4 – Kovacs, Maxwell, Courtney, Fejes
Abstain: 2 – Hutson, Strat

MOTION TO APPROVE MINUTES CARRIED

ITEM #2 – APPROVAL OF ITEM #3 AND ITEM #4

Motion by Courtney
Supported by Hutson

ITEM #2 – con't.

MOVED, to approve Item #3 and Item #4 in accordance with the suggested resolutions.

Yeas: All – 6

MOTION TO GRANT RENEWALS OF ITEM #3 & ITEM #4 CARRIED

ITEM #3 – RENEWAL REQUESTED. REVEREND PAUL STOVER, EVANSWOOD CHURCH OF GOD, 2601 E. SQUARE LAKE, for relief to maintain a landscaped berm in place of the 4'-6" high masonry wall required along the west side of off-street parking and deletion of the 4'-6" high masonry wall required along the north side of off-street parking.

Mr. Stimac explained that the petitioner is requesting renewal of relief granted by this Board to provide a berm in place of the 4'-6" high wall on the west side of off-street parking and deletion of the 4'-6" high wall required along off-street parking on the north side of the property. This relief was originally granted in 1995 based on the fact that the property immediately north of the parking lot is wetlands and has substantial growth. This item last appeared before this board at the meeting of May 2001 and was granted a three (3) year renewal at that time. Conditions remain the same and we have no complaints or objections on file.

MOVED, to grant Reverend Paul Stover, 2601 E. Square Lake, a three (3) year renewal of relief to provide a berm in place of the 4'-6" high wall on the west side of off-street parking and deletion of the 4'-6" high wall required along off-street parking on the north side of the property.

- Conditions remain the same.
- There are no complaints or objections on file.
- Variance is not contrary to public interest.

ITEM #4 – RENEWAL REQUESTED. REVEREND SIMION TIMBUC, BETHESDA ROMANIAN PENTECOSTAL CHURCH, 2075 E. LONG LAKE, for relief of the 4'-6" high masonry screening wall required along the east side of off-street parking.

Mr. Stimac explained that the petitioner is requesting renewal of relief granted by this Board of the 4'-6" high masonry-screening wall required along the east side of off-street parking. This relief has been granted on a yearly basis since May 1998. This item last appeared before this Board at the meeting of May 2003 and was granted a one-year renewal to allow the petitioner the opportunity to replace the dead shrubbery that was present; and also to allow the church the time needed to work with the City to determine what other type of screening can be provided.

ITEM #4 – con't.

MOVED, to grant Reverend Simion Timbuc, 2075 E. Long Lake, a three (3) year renewal of relief of the 4'-6" high masonry-screening wall required along the east side of off-street parking.

- Conditions remain the same.
- There are no complaints or objections on file.
- Variance is not contrary to public interest.

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ITEM #5 – VARIANCE REQUESTED. MR. & MRS. PRADEEP, 3839 WAYFARER, for relief of the rear yard setback to construct additions to their home, which would result in 35.23' rear yard setbacks where Section 30.10.04 requires a 40' minimum rear yard setback in R-1C Zoned Districts.

Petitioners are requesting relief of the rear yard setback to construct additions to their home. The site plan submitted indicates separate dining room and master bedroom additions on the rear of the home with proposed 35.23' rear yard setbacks to each one. Section 30.10.04 requires 40' minimum rear yard setbacks in R-1C Zoned Districts.

This item first appeared before this Board at the meeting of April 20, 2004. This request was postponed until this meeting to allow the petitioners to meet with the Architectural Committee to bring back their recommendations to the Board.

The Chairman, Mr. Maxwell, explained that the Board had received a letter from the petitioners requesting that this item be tabled until the next regular meeting, which is June 15, 2004.

Motion by Courtney
Supported by Fejes

MOVED, to postpone the request of Mr. & Mrs. Pradeep, 3839 Wayfarer, for relief of the rear yard setback to construct additions to their home, which would result in 35.23' rear yard setbacks where Section 30.10.04 requires a 40' minimum rear yard setback in R-1C Zoned Districts until the meeting of June 15, 2004.

- Per the request of the petitioner.

Yeas: All – 6

MOTION TO POSTPONE THIS REQUEST UNTIL THE MEETING OF JUNE 15, 2004
CARRIED

ITEM #6 – VARIANCE REQUEST. MR. & MRS. MIKE RYAN, 6750 LIMERICK LANE, for relief of Section 40.50.04 and of the Ordinance, which prohibits expansions of non-conforming structures in a way that increases the conformity to construct an addition to their home which has an existing 30' – 10" rear yard setback which would result in a 31' rear yard setback to the addition, where a minimum 45' rear yard setback is required by Section 30.10.01.

Mr. Stimac explained that the petitioners are requesting relief of the rear yard setback to construct an addition to their home. Section 30.10.01 requires a 45' minimum rear yard setback in R-1A Zoning Districts. The site plan submitted indicates the existing house has a 30' – 10" rear yard setback. The plans indicate an addition onto another portion of the home that will have a 31' setback to the rear property line. Section 40.50.04 of the Ordinance prohibits expansions of non-conforming structures in a way that increases the non-conformity.

Mr. & Mrs. Ryan was present and their architect, Robert Stein, was also present. Mr. Ryan stated that they want to expand their family room as they have three young children and the extra room would help as their family grows. Mr. Ryan indicated that when they moved into this home six years ago they were not aware that it was a non-conforming residence. Mr. Ryan has spoken to the neighbors and has received approval for this addition, as well as approval from the Architectural Committee. The neighbor to the immediate south would not be able to see this addition, and Mr. Ryan has received approval from each of the neighbors adjoining his property. The shingles and the brick on the addition will match the rest of the existing house.

Mr. Maxwell asked how far the proposed addition would be from the neighbor to the east of Mr. Ryan's home. Mr. Ryan indicated that they had recently added an addition to the back of their home and did not require a variance; therefore, he thought between the 45' setback and the additional 30', the home would be approximately 75' away. Mr. Stein said that according to the survey done, the house to the south is 87.2' from their garage, and the survey did not indicate how far the home to the east would be.

The Chairman opened the Public Hearing. No one wished to speak and the Public Hearing was closed.

There are six (6) written approvals on file. There are no written objections on file.

Mr. Hutson stated that he had been in the neighbor's home and believes there is a very large gap between the homes.

Motion by Hutson
Supported by Fejes

ITEM #6 – con't.

MOVED, to grant Mr. & Mrs. Michael Ryan, 6750 Limerick Lane, a variance for relief of the rear yard setback to construct an addition to their home, which will result in a rear yard setback of 31' where 45' minimum is required in R-1A Zoning Districts; and, relief of Section 40.50.04 of the Ordinance, which prohibits expansions of non-conforming structures in a way that increases the non-conformity.

- Variance is not contrary to public interest.
- Variance will not have an adverse effect to surrounding property.
- Variance request is minimal.
- Absent a variance, conformance to the Ordinance would be unnecessarily burdensome.

Yeas: All – 6

MOTION TO GRANT VARIANCE CARRIED

ITEM #7 – VARIANCE REQUEST. MIKE ELIAS, 5991 LIVERNOIS, for relief to construct a new gasoline/convenience store to replace the existing store at 5991 Livernois. The site is only 13,382 square feet where Paragraph B of Section 23.30.02 requires at least 15,000 square feet of land. The petitioner is also asking for reductions in the setbacks required to the edge of the pump canopy, canopy support and pump island as required by Paragraph G of Section 31.30.00. In addition, a minimum of 1,138 square feet of countable landscaping is required by Section 39.70.04 for a site this size. The plans indicate that only 647 square feet of countable landscaping will be provided.

Mr. Stimac explained that the petitioner is requesting relief of the Ordinance to construct a new gasoline/convenience store to replace the existing store located at 5991 Livernois. Paragraph B of Section 23.30.02 requires at least 15,000 square feet of land for a gasoline station in the H-S (Highway Service) Zoning District. The site plan submitted indicates that this site is only 13,382 square feet in size.

Paragraph G of Section 31.30.00 requires that front setbacks of 25' are provided to the edge of a pump canopy, 30' are provided to the pump island, and 35' are provided to the canopy support. The plans submitted indicate a canopy edge setback of 15', a canopy support setback of only 25', and a setback of approximately 22.5' from the pump island to the east property line along Livernois.

In addition, a minimum of 1,138 square feet of countable landscaping is required by Section 39.70.04 for a site this size. The plans indicate that only 647 square feet of countable landscaping will be provided.

It should be noted that in order for the petitioner's plans to be approved he would also require a variance for the requirement for 6 additional parking spaces. The public hearing on that request is scheduled to be heard before City Council on May 24, 2004.

ITEM #7 – con't.

Mr. Maxwell asked if this location had required a previous variance. Mr. Stimac indicated that similar variances were granted in January 1991 for the required setbacks from Livernois and from Square Lake to the gas pumps and a canopy. Mr. Maxwell asked if this building could be remodeled as long as the petitioner stayed within the previously granted variances. Mr. Stimac said that he could retain the existing facility and update it without requiring additional variances.

Mr. Courtney asked what the ramifications would be if the variances were granted by this Board, but City Council did not grant the parking variance request. Mr. Stimac said that this was difficult because if the parking variance was not granted, the petitioner would have to change his proposed plan and put the parking spaces in.

Mr. Strat asked if the petitioner should go before the Planning Commission before coming before either City Council or the Board of Zoning Appeals. Mr. Stimac said that typically cases are not sent to the Planning Commission first because they need five (5) variances. Mr. Strat indicated that it would be possible that the Planning Commission would require additional variances and felt that this item should be presented to the Planning Commission so that they could make recommendations to City Council.

Mr. Elias was present and stated that this building was constructed back in the 1940's and due to the increase in traffic and new homes in the area his business has quadrupled. He said it is very difficult to increase his business the way it is now and believes that these requests are improvements to the area. The two entrances at the corner would be closed, which would improve safety for the traffic. Presently, the site has no landscaping and Mr. Elias is proposing to add 647 square feet. Everything is an improvement not only in looks, but also in safety.

Mr. Maxwell asked Mr. Elias to explain each variance request as to what is presently on the site and what Mr. Elias is proposing.

Mr. Elias said that the canopy setback from the sidewalk is presently 8' and the proposed setback would be 15' where 25' is required; the pump right now is 15' away, the proposed plan would make it 20' away and 25' is required; and the landscaping requirement is 1138 square feet, presently there is none and 647 square feet is what is proposed.

The Chairman opened the Public Hearing.

Robert Habucke, 124 Pheasant Run was present and stated that he is a customer of this gas station and has become pretty good friends with Mr. Elias. Mr. Elias approached Mr. Habucke, who is a builder and asked for his opinion regarding these plans. Mr. Habucke said that he feels these changes would be an improvement to the location and would also help to improve the traffic congestion in this area.

ITEM #7 – con't.

Janet Schenk, 4613 Heatherbrook was present and said that she has been patronizing this location in order to support Mr. Elias as a small businessmen. Ms. Schenk also indicated that if there is a vehicle at the first pump and a vehicle at the last pump, the middle pump is blocked off. Parking is in the back and Ms. Schenk does not believe it is convenient and also blocks off their view and Mr. Elias has no way of knowing who is behind the gas station. Ms. Schenk comes to this location for coffee as well as gas and also to visit with Mr. Elias as a friend. Ms. Schenk is in full support of these variance requests.

James Tribula, 477 Hurst, was present and stated that Mr. Elias is a good businessman, he runs a good, clean, orderly business and is always ready to help people no matter what the problem is. Mr. Tribula also feels that right now this area is extremely crowded and would like to see Mr. Elias be able to increase the size of his store and make this area more efficient.

John Kendziorski, 6301 Donaldson was present and stated that he does not live too far from this gas station. Mr. Kendziorski stated that Mr. Elias has done a tremendous job with what he has to work with and feels that this is a very dangerous traffic intersection. There are a lot of school buses that travel down Livernois and Mr. Kendziorski stated that from the residents' standpoint, they would be in favor of granting these variances. He believes that these proposed changes will make access to the station easier and will help to alleviate some of this congestion.

No one else wished to be heard and the Public Hearing was closed.

There are no written approvals on file. There is one written objection on file.

Motion by Courtney
Supported by Fejes

MOVED, to grant Mike Elias, 5991 Livernois, relief of the ordinance to construction a new gasoline/convenience store to replace the existing store with the following variances:

1. Area of site is only 13,382 square feet in size, where Paragraph B of Section 23.30.02 requires at least 15,000 square feet of land for a gas station in the H-S (Highway Service) Zoning District;
2. Setback to the canopy edge of 15', a canopy support setback of only 25', and a setback of approximately 22.5' from the pump island to the east property line along Livernois, where Paragraph G of Section 31.30.00 requires that front setbacks of 25' are provided to the edge of a pump canopy, 30' are provided to the pump island, and 35' are provided to the canopy support; and
3. 647 square feet of landscaping will be provided where Section 39.70.04 requires 1,138 square feet of countable landscaping for a site this size.

ITEM #7 – con't.

- Variance is not contrary to public interest.
- Variance does not establish a prohibited use in a Zoning District.
- Variance will be an improvement to the area.
- Variance will improve the safety on the corner of Square Lake and Livernois.

Mr. Strat asked if Marathon Oil had reviewed these plans and Mr. Elias indicated that they did not have anything to do with this remodeling project. Mr. Strat expressed concern about the width of the drive off of Square Lake Road, which will then require a 90-degree turn for a vehicle to get to the pump. Mr. Strat also asked how someone coming in from Livernois would exit from this location. Mr. Elias said that they would exit to Square Lake and then return to Livernois. Mr. Strat thinks that Mr. Elias will end up very dissatisfied with this plan, if in fact it is implemented.

Mr. Hutson stated and that he is amazed and delighted that there are so many people who support Mr. Elias. Mr. Hutson further stated that he was very pleased to have a business owner like this in the community. Mr. Hutson did express concern that someone coming to the store may use the lane in front of the station to park and come in for what they need rather than using the parking spaces provided. Mr. Elias said that 90% of his customers leave their vehicles at the pump and then come into the store.

Mr. Fejes stated that he feels this would be an improvement because the driveway will be further back and will help to alleviate the traffic problem.

Mr. Strat said that he wanted to commend Mr. Elias with the job he has done and hopes that Mr. Elias is not making a mistake with this proposal. Mr. Elias said that he understands this and feels this is all an improvement and the problems will be solved with this plan. Mr. Strat said this is not the only gas station coming to the Planning Commission and although they have to be flexible, they also have to make recommendations that are safe.

Mr. Fejes asked about the access regarding the use of the drive of the business next door. Mr. Elias said that the proposed plan will not allow access to this area.

Mr. Kovacs said that he believes that the proposed plan is much better than what is existing and using the gas station occasionally. He also said that he has never seen anyone using the parking spaces and believes that moving the driveway will add safety to this intersection.

The Chairman called for a vote on Mr. Courtney's motion to approve.

Yeas: 5 – Courtney, Fejes, Hutson, Kovacs, Maxwell
Nays: 1 – Strat

ITEM #7 – con't.

MOTION TO GRANT VARIANCES CARRIED

ITEM #8 – ELECTION OF CHAIRMAN & VICE-CHAIRMAN FOR BOARD OF ZONING APPEALS

Motion by Courtney
Supported by Fejes

MOVED, to elect Matthew Kovacs, Chairman of the Board of Zoning Appeals and Marcia Gies, Vice Chairman, of the Board of Zoning Appeals for the year ending May 31, 2005.

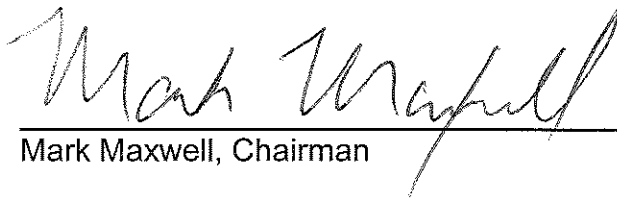
Mr. Kovacs stated that he would be honored to be Chairman and accepted the nomination.

Yeas: All – 6

MOTION TO ELECT MATTHEW KOVACS, CHAIRMAN, AND MARCIA GIES, VICE-CHAIRMAN CARRIED

Mr. Maxwell thanked the Board for their support and hard work and also thanked City Staff.

The Board of Zoning Appeals adjourned at 8:30 P.M.



Mark Maxwell, Chairman



Pamela Pasternak, Recording Secretary